

May 18, 2018

Mr. Eric Chodnicki  
Daft McCune & Walker, Inc.  
501 Fairmount Avenue, Suite 300  
Towson, MD 21286

Re: Windlass Run Business Park  
Forest Conservation Variance Request  
Tracking #06-18-2655

Dear Mr. Chodnicki:

The Department of Environmental Protection and Sustainability (EPS) received the above referenced submittal on February 5, 2018 for review and approval. If granted, the variance would allow the elimination of approximately 1.14 acres of existing, forested Forest Conservation Easement contiguous with the Forest Buffer Easement along Windlass Run to facilitate construction of a parking lot for moving vans. Supplemental information regarding mitigation for the loss of this protected forest was provided to this Department on May 2, 2018 for consideration.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the three criteria under Subsection 33-6-116 (d) must be met, and all three (3) of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to clear additional forest protected in a Forest Conservation Easement to provide truck parking for an existing commercial tenant. Full application of the law will not deprive the petitioner of all beneficial use of his property since the property is already being used for this purpose, and other open land outside of Forest Conservation Easement exists that could accommodate the parking. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The petitioner's plight is due to an existing tenant's need

for additional truck parking area, which is currently causing a problem for the neighboring properties. Consequently, we find that general conditions of the neighborhood are creating the petitioner's plight, thus this criterion has not been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The proposed parking lot is consistent with the uses of the surrounding properties that are also commercially zoned or developed. Therefore, we find that granting the requested variance would not alter the character of the neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. No direct impacts to the existing Forest Buffer Easement are proposed, and the existing SWM facility partially within the proposed parking lot's footprint would be redesigned to address this project's encroachment and manage the additional impervious surface. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance, which is the result of actions taken by the petitioner. The variance request does not arise from conditions and circumstances that were the result of actions taken by the petitioner. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. The petitioner proposes to mitigate the loss of forest that is high priority for retention by retaining similar forest at a 1:1 ratio within Baltimore Crossroads at 95. Therefore, this criterion has been met.

Based upon our review, this Department finds that the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. 1.14 acres of unprotected forest at Baltimore Crossroads at 95 Area 1 shall be placed in a Forest Conservation Easement as shown on the conceptual mitigation plan submitted May 2, 2018 prior to issuance of permits for the proposed parking lot. This easement shall be established by recording a revised record plat for Baltimore Crossroads at 95. The revised record plat must be approved by Baltimore County prior to issuance of any permit for the proposed parking lot.

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2. The revised record plat and Declarations of Protective Covenants for the “Forest Buffer & Forest Conservation Easement”, “Forest Buffer Easement”, and “Forest Conservation Easement” at Windlass Run Business Park shall be recorded in Land Records by November 18, 2018.
3. The Forest Conservation Plans for Baltimore Crossroads at 95 and Windlass Run Business Park shall be revised to reflect the conditions of this variance and submitted to EPS staff for approval prior to clearing any of the forest at issue or approval of any grading plan for the proposed parking lot.
4. There shall be no further reduction of any Forest Conservation Easement at Windlass Run Business Park.
5. The following note must appear on all subsequent plans and plats submitted for this project:
  - “A variance was granted on May 18, 2018, by the Baltimore County Department of Environmental Protection and Sustainability from the Forest Conservation Law. The Forest Conservation Easement shown hereon is reflective of the fact that this variance was granted. Conditions were placed on this variance including provision of a compensatory Forest Conservation Easement elsewhere.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout will require submittal of revised plans and a new variance request.

Please have the owner/developer sign the statement on the following page as the party responsible for meeting the conditions of this variance and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact me at (410) 887-8028.

Sincerely yours,

David V. Lykens  
Deputy Director

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DVL/ges

c. Mr. David H. deVilliers III , FRP Bird River, LLC

I/we agree to the above conditions to bring my/our property into compliance with  
Baltimore County's Forest Conservation Law.

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Owner's/Developer's Signature

Date

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Printed Name